

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER:

MYRNA L LOPEZ ALICEA  
Debtor(s)

FIRSTBANK PUERTO RICO  
Movant

CASE NO.: 17-03565 (ESL)

CHAPTER 13

(X) An action against the State  
under Title 11 USC §1307(c) (1) and  
§1307(c) (6), Title 11 USC §1326

MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now Movant, **FIRSTBANK PUERTO RICO**, through its undersigning attorney, and very respectfully ALLEGES, STATES and PRAYS:

1. This Honorable Court have jurisdiction under Title 28 USC §1334, and venue under Title 28 USC §1408, and particularly regarding this matter under Title 11 USC §1307(c) (1), (4) and (6), on Conversions and Dismissals, Title 11 USC 1325 (a) (1) and (6) on Code Requirements and Feasibility, Title 11 USC §1326 (a) (1) (A), on Payments in Thirty days, and Title 11 USC §1329 (b) (1) on Modification of Plan After Confirmation.

2. Debtor filed a bankruptcy case under chapter 13 back on May 22, 2017. See, Bkcy Dck no 1

3. MOVANT, standing to address this court is ascertained as filed a secure lien proof of claim, on a personal security loan, with an outstanding debt of \$16,524.84, under account no 1665. See, Clm. Reg. 1

4. As of to October 3, 2017, and prior to the Confirmation Hearing, debtor(s) already have the following installments owed to the chapter 13: \$650.00, for TWO (2) months in arrears. This evidences none compliance with the requirements under 11 USC §1325 (a) (6) on feasibility test, which is a confirmation requirement under 11 USC §1325 (a) (1) on compliance with all her duties under the Code, 11 USC §1326 (a) (1) (A) on compliance with payments amounts proposed under the plan not later than 30 days after the date of filing, and Title 11 USC §1329 (b) (1) on Modification of Plan After Confirmation, and the applicability of sections 1322 (a) and (b), and sections 1323 (c); and requirements under 11 USC 1325 (a), which are applicable under subsection (a) of 11 USC 1329. See, Attachment A

5. Under the terms of the proposed plan dated August 14, 2017 debtor(s) should have started to make continues direct payments since June 22, 2017, and as evidenced herein; the debtor(s) have failed to do so. See, Bkcy Dck 1, and 19.

6. Pursuant to the Service Members Civil Relief Act: - the data banks of the Department of the Defense Manpower Data Center confirmed that the debtor(s) is (are) not member(s) of the Uniformed Services (US Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health, and Cost Guard.) See, Attachment B

For the reasons stated above, MOVANT respectfully request from this Court to enter an order dismissing the present case pursuant Title 11 USC §1307(c)(1) on *Unreasonable delay by debtor that is prejudicial to Creditors*, (5) *denial of confirmation of a plan under 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan*, 11 USC §1326 (a) (1) *Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed, payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier*, and (6) on ~~Material default by the debtor with respect to a term of a confirmed plan~~, and Title 11 USC

Case no. 17-03565 [ESL]  
FIRSTBANK Puerto Rico  
Page 2 of 2

2

~~§1324 (b) on hearing of confirmation that shall to be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341 (a).~~ See also, on Dismissal for cause: In re Howard, 284 F3d 320 (1<sup>st</sup> Cir. 2002) and In re Roberts, 279 F3d 91 (1<sup>st</sup> Cir. 2002)

*The aforementioned request of dismissal is based on congressional intent to prevent bankruptcy abuse*

### **NOTICE**

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

Puerto Rico Local Bankruptcy Rule 9013-1(h)

In San Juan, Puerto Rico, on October 10, 2017

### **CERTIFICATE OF SERVICE**

**I hereby certify** that a copy was served by CM/ECF at the authorized address: - to all creditors, - to Atty. Alejandro Oliveras // Atty. José Carrión Morales, as Chapter 13 Trustee, and - to the attorney of the debtor(s) ROBERTO FIGUEROA CARRASQUILLO, and to debtor(s) by regular mail at the address on record, MYRNA L LOPEZ ALICEA, at RR 1 BOX 2391, CIDRA, PUERTO RICO 00739.

BY: /s/ María M. Benabe Rivera

María M. Benabe Rivera

Attorney for Movant - US - DC 208906

Maricarmen Colón Díaz – US – DC 211410

FIRSTBANK Puerto Rico

Centro de Servicios al Consumidor – Código 248

1130 Muñoz Rivera Ave., Rio Piedras, P R

PO Box 9146, San Juan, PR 00908-0146

maria.benabe@firstbankpr.com

(787)729-8135 / (787)729-8276 / [Rev.07/06/2016]

## **FIRSTBANK**

### *Analysis Sheet to Determine Arrears to Trustee*

In Re	: MYRNA L LOPEZ ALICEA
Case Number	: 17-03565
Account Number	: 1667 (AUTO)
Date of File	: 05/22/2017
Amount of Proof of Claim	: 16,524.84
Plan	: 325 X 60(19,500)
Monthly Payment of	: 325
Pass term	: 4
Should have paid in	: 1,300
Total paid in to plan	: 650
Amount in Arrears	: 650 (2 ARREARS)
Printed on	: 10/03/2017
Prepared by	: Marta Ríos

*Attachment - A*

**PRINT INQUIRY**

[Close Window](#)

[Click Here to Print this Page](#)

<b>17-03565-ESL</b>	<b>MYRNA LETICIA LOPEZ ALICEA</b>	<b>\$325.00 MO</b>	<b>Bar Date(s):</b> 9/19/2017 (has passed) 11/18/2017
<b>Trustee: ALEJANDRO OLIVERAS RIVERA</b>	<b>Attorney: ROBERTO FIGUEROA CARRASQUILLO*</b>	<b>Confirmed:</b> Not Confirmed	<b>Case Status:</b> ACTIVE

**Debtor Pay Schedules**

Start Date	Number Periods	Amount	How Often	Who's Paying	Order Date	Action
6/21/2017	60.00	\$325.00	MONTHLY	MYRNA LETICIA LOPEZ ALICEA	5/25/2017	
6/21/2022	end of plan	\$0.00	MONTHLY	MYRNA LETICIA LOPEZ ALICEA	5/25/2017	

**Forgive Information**

Date	Amount	Description
------	--------	-------------

**Payments Expected for Step 1:**

Period	Start Date	End Date	Payment Amount Expected	Total
1	6/21/2017	7/20/2017	\$325.00	\$325.00
2	7/21/2017	8/20/2017	\$325.00	\$650.00
3	8/21/2017	9/20/2017	\$325.00	\$975.00
4	9/21/2017	10/20/2017	\$325.00	\$1,300.00
5	10/21/2017	11/20/2017	\$325.00	\$1,625.00
6	11/21/2017	12/20/2017	\$325.00	\$1,950.00
7	12/21/2017	1/20/2018	\$325.00	\$2,275.00
8	1/21/2018	2/20/2018	\$325.00	\$2,600.00
9	2/21/2018	3/20/2018	\$325.00	\$2,925.00
10	3/21/2018	4/20/2018	\$325.00	\$3,250.00
11	4/21/2018	5/20/2018	\$325.00	\$3,575.00
12	5/21/2018	6/20/2018	\$325.00	\$3,900.00
13	6/21/2018	7/20/2018	\$325.00	\$4,225.00
14	7/21/2018	8/20/2018	\$325.00	\$4,550.00
15	8/21/2018	9/20/2018	\$325.00	\$4,875.00
16	9/21/2018	10/20/2018	\$325.00	\$5,200.00
17	10/21/2018	11/20/2018	\$325.00	\$5,525.00
18	11/21/2018	12/20/2018	\$325.00	\$5,850.00
19	12/21/2018	1/20/2019	\$325.00	\$6,175.00
20	1/21/2019	2/20/2019	\$325.00	\$6,500.00
21	2/21/2019	3/20/2019	\$325.00	\$6,825.00
22	3/21/2019	4/20/2019	\$325.00	\$7,150.00
23	4/21/2019	5/20/2019	\$325.00	\$7,475.00
24	5/21/2019	6/20/2019	\$325.00	\$7,800.00
25	6/21/2019	7/20/2019	\$325.00	\$8,125.00
26	7/21/2019	8/20/2019	\$325.00	\$8,450.00
27	8/21/2019	9/20/2019	\$325.00	\$8,775.00
Total				<b>\$8,775.00</b>

**Payments Expected for Step 2:**

Period	Start Date	End Date	Payment Amount Expected	Total
1	6/21/2022	7/20/2022	\$0.00	\$0.00
Total				<b>\$0.00</b>

**Breakdown for Combined Schedules**

Period	Date (Month/Year)	Payment Due	Payment Received	Forgive Amount	Amount Due
1	6/2017	\$325.00	\$325.00		\$0.00
2	7/2017	\$325.00			\$325.00
3	8/2017	\$325.00	\$325.00		\$325.00
4	9/2017	\$325.00			\$650.00
5	10/2017				\$650.00

**Total Delinquent Amount: \$650.00**



# Status Report Pursuant to Servicemembers Civil Relief Act

SSN:

Birth Date: Feb-XX-1976

Last Name: LOPEZ - ALICEA

First Name: MYRNA

Middle Name: L

Status As Of: Oct-06-2017

Certificate ID: 6NWZGIOZ46BOCVN

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

*Michael V. Sorrento*

Michael V. Sorrento, Director  
 Department of Defense - Manpower Data Center  
 400 Gigling Rd.  
 Seaside, CA 93955

*Attachment - B*

Label Matrix for local noticing  
0104-3  
Case 17-03565-ESL13  
District of Puerto Rico  
Old San Juan  
Tue Oct 3 12:34:08 AST 2017

Caribbean Finance  
PO Box 192388  
San Juan PR, 00919-2388

FIRST BANK  
CONSUMER SERVICE CENTER  
BANKRUPTCY DIVISION -CODE 248  
PO BOX 9146, SAN JUAN PR 00908-0146

LVNV Funding, LLC its successors and assigns  
assignee of Arrow Financial Services,  
LLC  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

MONSITA LECAROS ARIBAS  
OFFICE OF THE US TRUSTEE (UST)  
OCHOA BUILDING  
500 TANCA STREET SUITE 301  
SAN JUAN, PR 00901

FIRSTBANK PUERTO RICO  
C/O MARIA M BENABE RIVERA ESQ  
PO BOX 9146  
SANTURCE, PR 00908-0146

Claro  
PO Box 360998  
San Juan, PR 00936-0998

Islandfin  
PO Box 71504  
San Juan, PR 00936-8604

OASIS FINANCIAL SERVICES  
PO BOX 1011  
BAYAMON PR 00960-1011

MYRNA LETICIA LOPEZ ALICEA  
RR 1 Box 2391  
CIDRA, PR 00739-9856

US Bankruptcy Court District of P.R.  
Jose V Toledo Fed Bldg & US Courthouse  
300 Recinto Sur Street, Room 109  
San Juan, PR 00901-1964

Commoloco Inc.  
PO Box 71325  
San Juan, PR 00936-8425

(p)JEFFERSON CAPITAL SYSTEMS LLC  
PO BOX 7999  
SAINT CLOUD MN 56302-7999

ALEJANDRO OLIVERAS RIVERA  
ALEJANDRO OLIVERAS CHAPTER 13 TRUS  
PO BOX 9024062  
SAN JUAN, PR 00902-4062

ROBERTO FIGUEROA CARRASQUILLO  
PO BOX 186  
CAGUAS, PR 00726-0186

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Jefferson Capital Systems LLC  
Po Box 7999  
Saint Cloud Mn 56302-9617

End of Label Matrix  
Mailable recipients 14  
Bypassed recipients 0  
Total 14